

SPEECH OF HON. JOHN A. BINGHAM

OF OHIO,

In the House of Representatives,

JULY 9, 1856.

Mr. BINGHAM. I cannot express my surprise at the remarks that have fallen from the gentleman from North Carolina. He seems to labor under the impression that the case before the House is but a simple case of assault and battery, within the jurisdiction of a justice's court, and involving at most a five-dollar penalty!

The gentleman, sir, by the temper and language of his remarks, seems to count the guarantees of the Constitution as but dust in the balance, when brought in conflict with his overbearing sectional prejudices.

Mr. CLINGMAN. Will the gentleman allow me to speak a single sentence? I wish to say that what I have said, if true, is what would be said of it at home. That is all.

Mr. BINGHAM. I trust, sir, that hereafter the gentleman may exemplify by his practice that rule of conduct which he prescribes to others, and which he thinks should be especially observed by the distinguished Senator from Massachusetts, Mr. SUMNER. I submit to the House, that it ill becomes the gentleman to read lectures of propriety here to others, and straightway himself indulge in the grossest and most wanton abuse of an absent man. I should like to know, sir, who constituted the gentleman censor upon the personal appearance, bearing, and courage, of the accomplished Senator from Massachusetts?

The gentleman seems equally at fault in his estimate of the great character of the Senator, [Mr. SUMNER,] and of the issues arising out of that assault upon him which is now the subject of inquiry before the House. He very broadly assumes that the people's representatives have no distinctive privileges as representatives of the people, except during the *actual* session of the House. Until the exigency of this case demanded it, who ever advanced such an opinion as that? The freedom of speech and the security of person are upon trial to day. These great rights underlie and are essential to all representative government. Upon their main-

tenance depends the life of the State, and without their observance there can be no free Constitution and no free people. That the representative shall not be questioned elsewhere than in and by the body of which he is a member, for any speech or debate made in his official character, is a principle coeval with the English constitution, and recognised wherever the common law obtains as a rule of civil conduct.

The gentleman from North Carolina tells us that this privilege, as stated in our Constitution is borrowed "literally from an English statute," and that the statute was only intended to protect members of Parliament from civil liability in courts of justice for words spoken in debate. Sir, the gentleman is somewhat at fault in his reading, touching the history of this great privilege.

Blackstone tells us that the privilege of the English Parliament was principally established in order to protect its members, not only from being molested by their fellow subjects, but also from being oppressed by the power of the Crown. He enumerates the privilege of speech and of person as of the more notorious of these privileges. — (*Vol. 1, p. 164.*)

By the statute of 1 William and Mary, st. 2, chap. 2, the privilege of speech is declared to be "one of the liberties of the people;" and it is further provided, "that the freedom of speech, and debates, and proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament." And, sir, we are further told that this freedom of speech, as also the privilege of the person from arrest, are particularly demanded of the King in person by the Speaker of the House of Commons at the opening of every new Parliament, and that THESE IMMUNITIES are as ancient as Edward the Confessor. Sir, I venture the opinion, that to THESE IMMUNITIES of the English Commons, more than to any or all other causes combined, is attributable the proud fact in England's history, that her House of Com-

ons, through centuries of conflict and trial, stood forth the asylum of constitutional liberty, and firmly and defiantly maintained the rights of the people against the encroachments of tyranny, whether attempted under the rule of the Plantagenets, the Tudors, or the Stuarts. This great privilege of the people, sir—the freedom of speech and debate in their legislative assemblies, and the absolute immunity of their representatives from outrage, or insult, or menace, in the exercise thereof—is a privilege sacred and as clearly and solemnly established here in our own country as in England. It is this statute of 1st William and Mary that is incorporated in our Constitution, which provides that the Senators and Representatives shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.—(*Constitution of the United States, art. 1, sec. 8.*) Although our Constitution does not, in the words of the English statute, declare these privileges to be “of the liberties of the people,” it has always been understood; and Mr. Justice Story, in his commentaries on the Constitution, 2d vol., 847, says of these rights and privileges of the members of each House, they “are in truth the rights and privileges of their constituents, and their benefit and security.”

Happily you, Mr. Speaker, have no occasion, upon the opening of Congress, like the Speaker of the British Commons, to make demand of a thing that the people's representatives shall enjoy, unmolested and unquestioned, these great and essential rights of a free Commonwealth. These rights are declared by the Constitution; and, as a pledge for their observance, you demand and receive of every member of this House a solemn oath, by which he swears, in the presence of his Maker, “that he will support the Constitution of the United States”—that Constitution which provides that, during their attendance upon the session of Congress, not during its actual sittings merely, but during an entire session, and in going to and returning from the same, the Representatives and Senators “SHALL IN ALL CASES, EXCEPT TREASON, FELONY, AND BREACH OF THE PEACE,” be exempt from arrest, even by the strong arm of the law; that they shall not be questioned in any other place, or by any other body than their respective Houses, for any speech or debate therein; and that “THE RIGHT OF THE PEOPLE,” of all the people, whether Senator, Representative, or constituent, “TO BE SECURE IN THEIR PERSONS, SHALL NOT BE VIOLATED.”—(*Constitution of the United States, art. 1, sec. 6, and Amendments, art. 4.*)

That, sir, was the pledge which you demanded and received of every member of the House, his oath, his solemn oath, that he would not

himself, nor should others, so far as he could prevent it, outrage or restrict by menace or violence these great rights of free speech and personal security. But, sir, these provisions of the Constitution, and this solemn oath which you have administered, are but a solemn mockery, if the freedom of speech and debate here or in the Senate Chamber are to be silenced by the bludgeon, and the offender to defy the power of this House and of the Senate to restrain or punish his atrocious crime.

Mr. Speaker, whenever or wherever, within the United States, any person assaults and beats any member of either House of Congress as a punishment for words spoken here in debate, such person by this lawless act clearly commits two distinct offences, and becomes liable to answer therefore to two distinct tribunals. First, the person thus offending is guilty of an assault and battery, for which he is liable to answer to the courts of justice; and second, he is guilty of a contempt of that House to which the member thus assaulted belongs, a crime against the liberty of the people, a violation of their great right of freedom of speech in the person of their representative, for which the offender must answer to the House whose member he has assailed; unless, indeed, the assailant be himself a member of either House; in which event, the House to which he belongs may punish the contempt and vindicate the violated majesty of the people. This crime against the people, as distinct from the crime against the person injured, is not cognizable or punishable, as our law now is, in any earthly tribunal but the House or Senate.

In the case before us, the Senate has declined to punish the guilty party, on account of his privilege as a member of this House; but the Senate has complained and reported to this House that the member from South Carolina has, in the Senate Chamber, assaulted and beaten the Hon. CHARLES SUMNER, a Senator from Massachusetts, and has thereby “committed a breach of the privileges of that body; and that the power to arrest, try, and punish him for this offence devolves on this House.” That, sir, is the judgment of the Senate. This assault, therefore, upon the people's privilege—this crime which touches the nation's life—must be punished here, if anywhere. That the member is guilty of a crime against the people, as distinct from the crime against the person of the Senator from Massachusetts, will scarcely be questioned. Rawle, in his Commentary upon the Constitution, says:

“It is a maxim in the practical application of government, that the public functionaries should be supported in the free exercise of the powers intrusted to them. Attempts to bribe or to intimidate them constitute offences against the public.”—(P. 45)

And he adds, further, when speaking of the power of the House to punish for contempts of its authority, that it is “a summary jurisdiction for the punishment of offences substantially com-

mitted against the people.”—(Rawle, 44, 45.) But from the report of the minority, made in this case, followed up by the speech of the gentleman from North Carolina, I should not have supposed that any one would have doubted the power of this House to punish the member, by expulsion or imprisonment, for this crime upon the Constitution and the people. No one has ever doubted the power of the House to punish or expel its members for contempt, disorderly behaviour, or breach of its privileges, committed in the presence of the House, and during its session. The minority concede this, though their logic on the right of trial by jury would seem to exclude any such concession. The Constitution expressly provides that each House “may punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.”

Mr. Justice Story, commenting upon this clause of the Constitution, says “that this power in the House to punish and expel its members for aggravated misconduct was indispensable, not as a common, but as an ultimate, redress for the grievance.”—(2 *Story's Commentaries on the Constitution*, 299, secs. 835, 836.) You rely upon no court or Executive to redress this grievance—this crime against the people. You rely solely upon Congress. The Constitution provides that for disorderly behaviour each House may punish or expel its members. We have sworn, sir, to support the Constitution in this behalf. Shall we fail to do it? Do you not call it disorderly behaviour, and a breach of the Constitution, for a member of this House to violate the freedom of debate—to insult the majesty of the people, and desecrate the Hall of the Senate by a violent assault upon a public representative? What excuse or apology is there for this? If the Constitution may not restrain the member, nor his oath, nor the sacred right of person, from such violence and disorder, what can be done but expel him? Are we, sir, to wait till other members of this House, or the Senate, in a like lawless manner, are beaten and disabled, and the power of the people overturned? Is any man to be allowed, on any pretext, to beat American representatives, in the very forum of the people, at his pleasure? Is any member of this House to do this, and avoid responsibility to this House, and escape expulsion, on the ground that the House was not actually in session at the time?

Speaking of the expulsion clause of the Constitution, the minority, strangely enough, after what they have said of the despotism of a legislative body which *adjudges* and *executes*, as well as *enacts*, laws, say that, “Taking the whole paragraph in its connected sense, it seems to us that it has reference to the House while in session in the actual discharge of its constitutional duties”—and pray, sirs, who shall judge whether it is in the actual discharge of its constitutional duties? Shall any member who chooses to arm himself with a bludgeon

constitute himself the judge, and immediately upon adjournment, or an hour after the adjournment, authoritatively determine that member in debate was not in the actual discharge of his constitutional duty, and proceed in defiance of the House, to punish the offending member accordingly? So the minority manifestly conclude, and hence their novel and startling announcement:

“We entertain no doubt that the whole of this provision looks to the session of the House, and to punishing members for such disorderly conduct as would interrupt its session. Extend it beyond the presence of the session of the House, and it becomes an unlimited power, operating not only during the session of Congress, but during the recess.”

The minority are not content with a literal denial of this power of Congress to expel or punish its members for disorderly behaviour or breach of its privileges, or for infamous crimes committed when the House is not *actually* in session, but they are equally swift to limit and restrict the constitutional exemption of Senators and Representatives from question elsewhere for any speech or debate in either House. Of this exemption the minority say:

“This provision of the Constitution was evidently intended to protect members from such *legal* liability as might incur for words spoken in debate in their respective Houses. It can hardly be supposed that the Constitution was providing against a mode of questioning, which itself, even without such provision, would have been only unauthorized by law, but in direct violation of criminal law of the land.”

And the minority say, further:

“If members of Congress seek this shield and protection which the Constitution gives them, it is an onerous condition imposed upon them, that their speech shall be *proper* and *legitimate*, in the discharge of their constitutional duty.”—(P. 16.)

In connection with this strange declaration the minority tell us, “we recognise no privileged class.” In short, they deny the privilege of the people, in order to justify their construction of the Constitution.

By the construction of the minority, the 5th and 6th sections, 1st article, of the Constitution are interpolated, so as to read thus: “Every House may punish, or by a vote of two-thirds may expel, a member for disorderly behaviour committed while the House is *in session*, and in the actual discharge of its constitutional duties; and “The Senators and Representatives, in any *proper* and *legitimate* speech or debate in either House, shall not be *legally* questioned in any other place for the liability *thus* incurred; but neither House may punish nor interfere with any member or person for *illegally* questioning, when neither House is *actually* sitting; any Senator or Representative for any speech or debate—provided that the *questioning* shall be in direct violation of the criminal law of the land.”

In other words, by this new version of the Constitution, this House is powerless to put any of its members who may choose, within an hour after the close of its session of each day, to question fellow-members for words uttered in debate, by waylaying him, and clubbing

still he is literally senseless and drenched in blood. And, sir, if to-day this may be done by member, and he shall be at large upon his cognizance entered into before a committing magistrate, he may select other members of a House as victims for his vengeance an hour after adjournment to-morrow, and so on each successive day, until he demonstrates the fact—the mournful, humiliating fact—that the people's constitutional privilege of immunity from censure in the persons of their representatives in any speech or debate, in either House, is a mockery and a dream; that they have no higher security against the assaults of whoever chooses, for adjournment, to arm himself with a blade for the punishment of the freedom of speech, on the \$500 bond required by a justice of peace. We are not, sir, reduced to any such tremor. Every Representative is covered by the shield of the Constitution from question elsewhere than in and by the House, for any speech or debate therein. I cannot assent to a minority's proposition, as also the proposition of the gentleman from North Carolina, that questioning during recess, by any mode of censure, cannot be punished by the House, and not provided against by the Constitution.

Sir, neither the heart nor the understanding of the American people will assent to a proposition so monstrous and absurd. I array against the usage and practice of our own and all other Governments, the opinions of jurists, and the decisions of our highest judicial tribunal. *The practice and usage.* In 1797, William Blount, a United States Senator, was expelled from that body by the vote of every Senator, save one. His offence was an attempt to seduce in his duty an American agent among the Indians, and to alienate the confidence of the Indians from the public authorities of the United States. Justice Story says of this case, *Commentaries on the Constitution*, 299:)

It was not a statutable offence; nor was it committed in official character; nor was it committed during the session of Congress; nor at the seat of Government. * * * seems therefore to be settled by the Senate, upon full deliberation, that expulsion may be for any misdemeanor, *though not punishable by any statute*, is inconsistent with the trust and duty of a Senator."

In 1803, the Senate moved for the expulsion of John Smith, (a Senator,) for his participation in the supposed treasonable conspiracy of Burr. This motion of expulsion failed only by a vote of receiving the sanction of two-thirds the Senate, as required by the Constitution, expulsion. And of this case Justice Story says:

The precise ground of the failure of the motion does not appear; but it may be gathered from the arguments of counsel, that it did not turn upon any doubt that the power of the Senate extended to cases of misdemeanor not done in presence or view of the body."—(*Ibid.*, 300.)

And, commenting further upon these cases, the learned Justice says:

The power to expel a member is not, in the British sense of Commons, confined to offences committed by a party as a member, or during the session of Parliament: it extends to all cases where the offence is such as, in

the judgment of the House, unfits him for parliamentary duties."—(*Ibid.*, 300, 301.)

In 1796, Gann and Frelinghuysen being Senators, the first having sent—the second having borne—a challenge to Baldwin, a member of this House, for a cause not connected with his official duty, were, upon the report of Mr. Madison, held guilty of violating the privileges of this House, and required to answer to the House for the same. In 1795, Robert Randall attempted to corrupt a member of this House, for which he was imprisoned.—(*2 Story's Commentaries on the Constitution*, 312.) In 1800, William Duane, for printing a libel against the Senate, was held guilty of a contempt, and by the order of the Senate imprisoned.—(*Ibid.*, 314.) Blackstone (vol. 1, 165) says:

"To assault, by violence, a member of either House is a high contempt of Parliament, and there punished with the utmost severity. The assault is also punishable in the courts of law, by statutes of 5 Henry IV and 11 Henry VI."

Justice Story, after asserting this power to punish contempts to be fully vested in the Congress of the United States, well remarks:

"Nor is this power to be received in an unfavorable light. It is a privilege, not of the members of either House, but, like all other privileges of Congress, mainly intended as a privilege of the people, and for their benefit."—(*2 Story's Commentaries on the Constitution*, 307.)

Jefferson, in his Manual, section third, enumerates the powers and privileges of Congress over their members, and says that "no further law is necessary, the Constitution being the law." Rawle, in his work on the Constitution, says:

"Expulsion may, however, be founded on criminal conduct committed in any place, and either before or after conviction in a court of law."—(*Pp.* 45, 44, 45.)

He notices and answers the objection urged here, that this power impairs the right of trial by jury. If this objection be well taken, what becomes of the express power given to the Senate in cases of impeachment, wherein no trial by jury takes place? Mr. Chancellor Kent, whose luminous intellect has shed a clear and brilliant light over the jurisprudence of his country, holds that this power of the House to punish its own members and others, for contempt, rests upon the great principle of self-preservation.—(*1 Kent's Commentaries*, 236.) He considers that the decision of the Supreme Court of the United States, in the case of *Anderson vs. Dunn*, (6 Wheaton, 204, 231,) by its reasoning, as well as its absolute authority, places the power of Congress to punish contempts and breaches of its privileges on the most solid foundation. I briefly notice that case. Anderson was not a member of the House, but attempted to bribe a member, for which the House, by its Sergeant-at-arms, arrested him; and for this arrest Anderson brought his action for false imprisonment. The court say, in the very able opinion delivered in the case by Mr. Justice Johnson:

"It is certainly true that there is no power given by the Constitution to either House to punish for contempts, except when committed by their own members. Nor does

the judicial or criminal power given to the United States, in any part, expressly extend to the infliction of punishment for contempts of either House, or any co-ordinate branch of the Government. Shall we, therefore, decide that no such power exists?"

The court fully sustain the power of the House, and answer every objection urged here to-day by the minority, and by the gentleman from North Carolina, [Mr. CLINGMAN.] The court further say:

"The idea is utopian, that government can exist without leaving the exercise of discretion somewhere. Public security against the abuse of such discretion must rest on responsibility, and stated appeals to the public approbation. Where all power is derived from the people, and public functionaries, at short intervals, deposit it at the feet of the people, to be resumed again only at their will, individual fears may be alarmed by the monsters of imagination, but individual liberty can be in little danger." * * * "The science of government is the most abstract of all sciences, if, indeed, that can be called a science which has but few fixed principles, and practically consists in little more than the exercise of a sound discretion, applied to the exigencies of the State as they arise. It is the science of experiment." * * * "The public functionaries must be left free to exercise the powers which the people have intrusted to them."

"That a deliberative assembly, clothed with the majesty of the people, and charged with the care of all that is dear to them, composed of the most distinguished citizens, selected and drawn together from every quarter of a great nation, whose deliberations are required by the public opinion to be conducted under the eye of the public, and whose decisions must be clothed with all that sanctity which unlimited confidence in their wisdom and purity can inspire—that such an assembly should not possess the power to suppress riotousness, or to repel insult, is a supposition too wild to be suggested. And accordingly, to avoid the pressure of these considerations, it has been urged, that the right of the respective Houses to exclude from their presence, and their absolute control within their own walls, convey with them the right to punish contempts committed in their presence."

The court then say that this concession of the power *within their walls* "relinquishes the great grounds of the argument, to wit: the want of an express grant, and the unrestricted and undefined nature of the power here set up. For why should the House be at liberty to exercise an ungranted and unlimited, and undefined power, within their walls, any more than without them?"

The court finally say, upon the question raised of restricting the jurisdiction of the House for the punishment of contempts to the District of Columbia, that there is no reason for such restriction; and the court add:

"We know no bounds that can be prescribed to its range, but those of the United States. And why should it be restricted to other boundaries? Such are the limits of the legislating powers of that body; and the inhabitants of Louisiana or Maine may as probably charge them with bribery or corruption, or attempt by letter to induce the commission of either, as the inhabitants of any other section of the Union."

I conclude, sir, that there can be no question that this House has the power to punish and expel its members for breach of its privileges, for contempt of its authority, and for such high crimes and misdemeanors as are inconsistent with their public trust and duties as members, whether committed in the presence of the House, and during its actual session, or not. The opinions of jurists, and the decision of our highest court, which I have cited, most clearly establish this.

I consider that, beyond question, the act committed by the member from South Carolina [Mr. Brooks] is a contempt of this House, a violation of his duty as a member thereof, and a high crime against the people and their right of representation.

We have seen, sir, that a Senator, for an act inconsistent with his duty as Senator, but not committed against any member of that body, nor during its session, nor in its presence, was expelled; that Duane, not a member, was imprisoned for printing a libel—an offence not committed in the Senate, nor to the disturbance of its proceedings, and for which the offender was liable to indictment and punishment in the courts; and that Randall, not a member, was imprisoned by this House for a secret attempt to bribe one of its members. In administering justice here, I will "recognise no privileged class." If Blount could be lawfully expelled, and Duane and Randall lawfully imprisoned, I insist that, for a like offence, the member from South Carolina may, and should, be dealt with in like manner. History, sir, the great avenger of wrong, has recorded this crime upon the people's life, and stands ready to record its dread condemnation against this House, if it refuse to inflict the punishment which that crime deserves. Consider the subject of this offence, the alleged provocation, the method, the place, the avowed purpose, the approval, and the fit condemnation.

The brilliant and distinguished Senator from Massachusetts is the subject of this assault—that Senator who, notwithstanding the attempt of the gentleman from North Carolina [Mr. CLINGMAN] to defame him, holds now, and will hold, a large place in the affection and admiration of his countrymen. That Senator, sir, denounced the audacious crime which is being committed in Kansas. In his place as Senator, he made a powerful and convincing argument against the unparalleled conspiracy which is subjecting that young empire of the West to a cruel and relentless tyranny—a tyranny which inflicts death on citizens guilty of no offence against the laws; which sacks their towns and plunders and burns their habitations; which legalizes, throughout that vast extent of territory, chattel slavery, that crime of crimes—that sum of all villainies, which makes merchandise of immortality, and, like the curse of Kehama, smites the earth with barrenness—that crime which blasts the human intellect, and blights the human heart, and maddens the human brain, and crushes the human soul—that crime which puts out the light and hushes the sweet voices of home—shatters its altar and scatters darkness and desolation over its hearthstone—that crime which dooms men to live without knowledge, to toil without reward, to die without hope—that crime which sends little children to the shambles, and makes the mother forget her love for her child in the wild joy she feels that, through untimely death inflicted by her own hand, she has saved her offspring from this damning curse,

and sent its infant spirit, free from this horrid taint, back to the God who gave it.

Against this infernal and atrocious tyranny, upheld and being accomplished through a stupendous conspiracy, the Senator from Massachusetts, faithful to his own convictions, faithful to the holy cause of Liberty, faithful to his country and his God, entered his protest, and uttered his manly and powerful denunciation. What was there in this to offend? Was it because he presented that terrible impeachment by the great Roman orator of the tyrant Verres as a fit denunciation of those new tyrants in Kansas, who but re-enact the brutal cruelties of Verres?

It is not claimed that the Senator uttered any word which he did not believe to be true; but it is said that, in his exposition of this wickedness, he denounced the act, the men, and the States, that aid and abet it, with an intemperate violence of language. He spoke with zeal, with knowledge, and power. This, sir, is the head and front of his offending. Is nothing to be pardoned to the spirit of Liberty? Is the great right of the People—freedom of debate in the Senate and House—to be restricted in its exercise to the notions of every man who chooses to constitute himself the judge of what may and may not rightfully be said? The fact, sir, that the Senate permitted the words to be used in its body, without objection, is conclusive evidence that it was the right of the Massachusetts Senator so to speak; nay, more, the Senate is the only and final arbiter of what may THERE be rightfully said in debate. That, sir, is the necessary sequence from the constitutional provision that each House may make rules for its own government, and no member of either House shall, for any speech or debate, be questioned in any other place. For his speech, under the Constitution, therefore, no earthly power had the legal right to question the Senator but the Senate of the United States. I dismiss this inquiry as to the provocation, with this additional word—that no man can rightfully find provocation for, and justification or excuse of, an assault upon the people's representatives, because of any speech or debate made by any member in either House. The doing of a lawful act, the exercise of a lawful right, or the discharge of a lawful duty, can never furnish apology or excuse for the commission of a crime.

Now, consider the place and method and avowed purpose of this assault. The perpetrator of this act says his object was to punish the Senator for words spoken in debate in the Senate—and thus confesses his crime against the people. Every personal consideration, sir, sinks before the magnitude of this offence. A Senator of the United States, in the Senate Chamber, in the felt presence of the people, is struck down, and well nigh murdered, for words spoken in debate—and this, too, by a member of this House, who, like all of us, had sworn

that he would support that Constitution which declares that the person of the Senator and citizen alike shall be inviolate, and that the Representatives of the People shall not, for any speech or debate in either House, be questioned by any other person or body whatever.

Sir, notwithstanding this oath, notwithstanding this constitutional inhibition of violence to the persons of all the citizens and their representatives, notwithstanding the sacred presence of the people in their own halls of legislation, the Senator's way of approach to the Capitol was beleaguered and watched; and while in his place in the Senate Chamber, armed with no weapon but his pen—that peaceful weapon of a Christian civilization—the member from South Carolina [Mr. Brooks] deliberately, and with the advice of another member of the House, proceeds to the Hall of the Senate, and there, with a bludgeon, in utter disregard of the place, of the life of the Senator from Massachusetts, and of the sacred rights of the people, whose representative he was, inflicts upon that Senator repeated blows, staining the place with blood, and profaning it with crime. Why was that weapon selected? It is the rude weapon of a barbarous age. With what horrid sacrifice, on what dreadful altar, has it not been consecrated? What sacrilegious vow impelled its use in this great crime upon the people's life? Was it selected because it was the weapon first employed by man against his brother—the weapon by which that horrid crime was committed which first in "our world" covered one manly brow with the wan paleness and terrible beauty of death, and another with the damning blotch of fratricide? Whether by accident or design, the weapon is in character with the act! And the place! Was the Senate Chamber selected in humble imitation of that audacity which induced Verres to select the forum of the people for his wanton and cruel assault upon a Roman citizen?

In this transaction, sir, what is wanting to make this atrocity the parallel in all respects of that atrocity of Verres, which subjected him to the burning invective of the great Roman orator? What is the offence of the Massachusetts Senator, that he, though an American citizen, whose person by the Constitution is sacred, is subjected to this outrage and indignity? It is said of him, as was said by Verres of the scourged Roman citizen, "He is sent *hither* a spy by the leaders of runaway slaves." That Senator, sir, comes from Massachusetts, where are Lexington, and Concord, and Bunker Hill, and the Rock of the Pilgrims—"where every sod's a soldier's sepulchre"—where are the footprints of the apostles and martyrs of Freedom—that State which allowed a trembling fugitive, fleeing only for his LIBERTY, to lay his weary limbs to rest upon Warren's grave—that State whose mighty heart throbbed with human sympathy for the flying bondman, who, guilty of no crime under the forms of law, but, in view

iation of its free spirit, walked in chains beneath the shadow of Faneuil Hall, where linger the sacred memories of the past and the echoes of those burning words, **DEATH OR DELIVERANCE**. For this, that he represents this sentiment of Massachusetts—say the endorsers and approvers of this assault—let the Senator, though an American citizen, be scourged; for this, like Verres, they cry, Let him be beaten with rods in the forum of the people—let him suffer not only *in sight*, but in the very presence of his country, of liberty, and the laws, and let America see her son die by the miserable and painful punishment commonly inflicted on slaves.

While the Representative from South Carolina inflicts this punishment upon the Senator from Massachusetts in the temple of the Republic, an orator of South Carolina, in the Capitol of that State, is reported to have said, "that he considered the castigation applied at the right time, in the right place, on the right individual, by the right man, and with the right instrument"—that instrument by which we chastise the objects of Senator Sumner's false-hearted benevolence and hypocritical humanity, when they become insolent."—(*South Carolina Times*.) All parties in South Carolina, it appears, are ready to approve this act—even the slaves come with their tribute of admiration. Speaking of this, the *South Carolinian*, published in Columbia, South Carolina, says:

"To add the crowning glory to the good work, the slaves of Columbia have already a handsome subscription, and will present an appropriate token of their regard to him [Mr. Brooks] who has made the first practical issue for their preservation and protection in their rights and enjoyments, as the happiest laborers on the face of the globe."

Commenting upon this, the *Charleston Mercury* (South Carolina) says:

"Was the like of this ever before published in a newspaper in South Carolina? The negroes of Columbia have actually participated in the congratulations of Mr. Brooks, and the *South Carolinian* lauds it as 'the crowning glory to the good work.' Now, these meetings in South Carolina, to sustain Mr. Brooks, as counter to those at the North, are proper enough. But when, in the capital of the State, slaves are permitted, nay, applauded and urged, to take part in our political movements." * * * "It is a spectacle as disgusting as it is novel. We blush for the State where such things are permitted. If our slaves can publicly congratulate, may they not publicly condemn?"

Well considered; these slaves are the victims of oppression; the iron has entered their souls; and, IF PERMITTED TO EXPRESS THEIR OPINIONS, THEY MIGHT CONDEMN!

But, sir, South Carolina is not alone in this approval: Georgia, by her Senator, [Mr. TOOMBS.] approves; Illinois, by her Senator, [Mr. DOUGLAS.] approves; this city, by a part of her press, approves; and Virginia, by her press, approves. I quote from the *Washington Sentinel*, published here, of date 27th May last, the following:

"If Massachusetts will not recall such a man; if the Senate will not eject him or censure him; if the *main Senator* (SUMNER) will not hold himself responsible for such

insults to his fellow Senators, what is to be done? Nothing in this world but to cowhide bad manners out of him, or good manners into him."

And from the *Richmond (Va.) Enquirer*, of 2d June, I quote the following:

"In the main, the press of the South applauded the conduct of Mr. Brooks, without condition or limitation. Our approbation, at least, is entire and unreserved. We consider the act good in conception, better in execution, and best of all in consequences. These vulgar Abolitionists in the Senate are setting above themselves. They have been humored until they forget their position. They have grown saucy, and dare to be impudent to gentlemen!" * * * "They must be lashed into submission; SUMNER, in particular, ought to have nine-and-thirty, early every morning."

There, sir, is the avowed purpose of this assault. Before the *fact*, the boast was, "We will subdue you;" after the fact, the arrogant avowal is, "We will lash you into submission." There are men who are not yet lashed into submission. I have no further word of comment. I leave this offensive avowal to that swift and overwhelming rebuke which it will receive at the hands of insulted freemen.

I have spoken, sir, strongly—but not more strongly than I feel—of this offence. While I disclaim any personal animosity or ill will towards the member from South Carolina [Mr. Brooks;] while I scout with scorn that grim Pagan honor of the olden time, which "deemed vengeance duty, and forgiveness crime," I cannot evade the conclusion, if I would, that stern, irrevocable justice demands at our hands that the offender shall suffer the penalty which the Constitution affixes to his lawless act—expulsion from this House, whose privileges he has forfeited. That, sir, is my judgment; it could be no otherwise if the member from South Carolina were my brother. It is the first time, sir, in the history of our Government, that a member of this House has dared, in violation of his oath and of the Constitution, to insult the majesty of the people in the Senate Chamber, by there deliberately assaulting and beating a Senator for words spoken in debate. Let this offence be punished to the fullest extent of our power; and let such an enactment be passed without delay as will hereafter affix to this *audacious* crime such a penalty as will deter a repetition of the offence by any man for all time to come. Let it be provided, sir, by law, that whoever, at any time or place within the jurisdiction of the United States, shall assault, or aid or procure another to assault, any Senator or Representative of the United States, for words spoken in debate in either House, such person shall, upon conviction thereof, be imprisoned as a felon in the penitentiary. Let him be cut off, like other criminals, from the fellowship of freemen; let the anathema of an offended and outraged people fall upon him; let him be shut out from the comforts of home, from the sweet protection of the laws, and from that light in which we live.

Sir, I desire not so much that the member from South Carolina should suffer, as that others may learn obedience to the laws by his exam-

ple. Let us in this emergency lift ourselves above all local prejudice, or mere personal considerations, and embrace within our vision our whole country. That country, sir, is something more than the narrow spot which immediately surrounds us; it is something more than that noble Commonwealth in which it pleased God to pour the first beam of light upon my understanding—where are the graves of my kindred and the home of my childhood. Our country embraces these, and more; it includes the East and the West, the North and the South, of this great Republic—this entire sisterhood of States—with the homes of all their living, and the graves, the sacred homes, of all their dead. These, these, make up our country—that brilliant heritage which God in his infinite goodness gave to our fathers, has transmitted to us, and will, we trust, transmit to our children—that land consecrate to Freedom and Humanity—rich in a fertile soil, yielding in great abundance the productions of every zone, abounding in all useful and precious deposits, interspersed with mighty rivers, adorned with grand and lofty mountains, and washed by the waters of two great oceans. What would this vast heritage be, without free representative government, free speech, and free men? A world without a sun—a land of darkness, as darkness itself, whose very light would be darkness.

It is to our free Constitution that we are indebted, under God, for all that we are; and it is upon that, with His blessing, that we rely for all that we hope to be. Let us not forget the words of its immortal author, who now looks down upon us from these walls. "THE CONSTITUTION," says Washington, "IS SACREDLY OBLIGATORY UPON ALL;" and his other words of equal significance and import, "IT IS INDEED LITTLE ELSE THAN A NAME, WHERE THE GOVERNMENT IS

TOO FREEBLE" * * * "TO MAINTAIN ALL IN THE SECURE AND TRANQUIL ENJOYMENT OF THE RIGHTS OF PERSON."

The Constitution has guaranteed these rights of person; it provides that the freedom of speech and the security of person shall be inviolate, and, to this end, that justice shall be established. This great sentiment, dear to freemen, and formidable to tyrants only—LIBERTY TO ALL, AND JUSTICE TO ALL—is the spirit which informs the Constitution and makes up its life. Let the Constitution be held inviolate, and let its great purposes be realized. That sacred instrument was formed and fashioned by those men of old, whom God taught to build for glory and for beauty; at their word, it sprang like a new creation from the night of the Revolution, and the shattered fragments of the Confederation; they have finished their work, and gone down to their rest, one by one, as stars go down in the quiet sky! For their sake, let the Constitution stand the monument of their wisdom, and the crowning glory of their lives; let the Constitution stand for the sake of the millions who enjoy its blessings, and are sheltered by its power; let the Constitution stand for the sake of the sons of Liberty in all lands, who utter prayers daily for its preservation, and flee to it for protection; and, oh! let the Constitution stand for the sake of those who are to come after us—for the sake of our children, and our children's children.

If the greatest of all earthly calamities must come upon us; if that Constitution which our fathers gave us must perish, and be forever lost to human vision, amid the thick darkness which broods over the awful gulf of national disunion and national death, God grant that this sacred charter of Freedom may fall at last, if fall it must, amid the wild battle-cry in which it had its origin—LIBERTY AND JUSTICE, THE NOBLEST RIGHT, THE STERNEST DUTY, OF MEN AND NATIONS.